



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: November 16, 2010

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department

SUBJECT: State Revolving Fund Loan For The William B. Cater Water Treatment Plant And Ortega Groundwater Treatment Plant Projects

RECOMMENDATION:

That Council adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Amending Resolution No. 09-090 Identifying and Dedicating a Source of Revenue to Repay a Safe Drinking Water State Revolving Fund (SDWSRF) Loan in an Amount of \$29.92 Million to Finance Project Number 4210010-004 for the Advanced Treatment Project at the William B. Cater Water Treatment Plant and the Ortega Groundwater Treatment Plant Rehabilitation and Improvements Project.

DISCUSSION:

On November 17, 2009, Council adopted a resolution authorizing certain City officials to undertake actions required by a Notice Of Application Acceptance (NOAA) issued by the California Department of Public Health (CDPH) to the City for a \$29,920,000 SDWSRF loan. Representatives of the Department of Public Health requested the amendment of the resolution to incorporate changes in the loan program and other terms, including that the source of the City's funding be clarified and the dedicated revenue to repay the loan be clarified and specifically listed.

Project Description

The Advanced Treatment (Ozone) Project at the William B. Cater Water Treatment Plant (Cater) and the Ortega Groundwater Treatment Plant (OGTP) Rehabilitation and Improvements Project both address upcoming water regulation compliance. As a result, they are eligible to be funded through a low interest SDWSRF loan.

Ozone Project

Cater treats the water for the City of Santa Barbara and the Montecito and Carpinteria Valley Water Districts. The Ozone Project is the culmination of many years of work to determine the best solution for the South Coast water agencies to comply with the

upcoming Stage 2 Disinfection By-Products Rule (Stage 2 Rule), which will lower the allowable level of disinfection by-products in drinking water. The CDPH will implement the Stage 2 Rule in 2012.

The Ozone Project is a centralized solution that will install an ozonation facility at Cater, along with supporting chemical stations and a dewatering facility. The project will enable South Coast water agencies to consistently comply with the State 2 Rule; and it will also provide better tasting water. City staff presented the Ozone Project to, and received approvals from, the Boards of Directors for both the Montecito and the Carpinteria Valley Water Districts. Through agreements, including a Joint Powers Agreement, the two agencies will pay a combined 39% of the estimated \$20 million cost for the Ozone Project.

The City has submitted the Project Plans and Specifications to the City's Building and Safety Division for review and approval. The City has also submitted the Project Plans and Specifications to CDPH per the NOAA requirements to secure SRF loan funding.

OGTP Rehabilitation and Improvements Project

The OGTP Rehabilitation and Improvements Project will refurbish the existing groundwater treatment plant and filters. Having the OGTP online will assist the City, Montecito and Carpinteria in meeting the Stage 2 Rule. Groundwater contains only trace amounts of disinfection byproducts; therefore, blending treated groundwater with treated surface water from Cater will effectively lower the levels of disinfection by-products in the distribution systems. Additionally, rehabilitating the existing OGTP will enable staff to more effectively use the City's groundwater supplies, which is especially important during periods of drought or emergency.

The City has submitted the Project Plans and Specifications to the City's Building and Safety Division for review and approval. The City has also submitted the Project Plans and Specifications to CDPH per the NOAA requirements to secure loan funding.

Loan Application and Action

On January 13, 2009, City Council authorized the City Administrator to apply for a SDWSRF loan for the Ozone Project on behalf of the City. The estimated loan amount was \$20 million. During the loan application period, CDPH representatives contacted City staff about extending the loan funding to the OGTP Rehabilitation and Improvements Project, since the project will also assist with Stage 2 Rule compliance.

The estimated project cost for the OGTP Rehabilitation and Improvements Project is \$9.92 million. Staff had planned to use debt funding to finance the OGTP Rehabilitation and Improvements Project, but the low-interest SDWSRF loan is a better cost alternative. The City has received a letter from the CDPH (see Attachment) which serves as the NOAA. CDPH will encumber the funds for the SDWSRF loan in the amount of \$29.92 million. The funds will be used for both projects per the agreements

set forth in the NOAA letter. The final loan amount will be determined after the projects are bid. At that time, staff will return to Council for approval of the actual SDWSRF loan amount and award of contract for construction.

The SDWSRF loan will cover 100% of the costs for both projects. Terms of the loan agreement include a 20-year repayment period at a fixed 2.5 percent interest rate. The City has already signed the NOAA and returned it to the CDPH to indicate the City's acceptance of the terms of the preliminary offer and its intention to proceed with the projects. It does not constitute any obligation on the City's part to execute the loan contract. To maintain the SDWSRF loan funding status, the City is required to submit the amended resolution as soon as possible.

The amended resolution maintains the City Administrator as the authorized individual qualified to apply for the loan on behalf of the City, and also identifies rates from the Water Fund as a dedicated net revenue source for repayment of the loan along with payments from the Montecito Water District and Carpinteria Valley Water District as provided by the Joint Powers Agreement with those districts.

This item was presented to the Board of Water Commissioners at their meeting on November 9, 2009, and the Board voted 4-0 in favor of the recommendation.

ATTACHMENT: Notice of Acceptance of Application dated September 29, 2009

PREPARED BY: Cathy Taylor, Water System Manager/JW/mh

SUBMITTED BY: Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office



MARK B HORTON, MD, MSPH
Director

State of California—Health and Human Services Agency
California Department of Public Health



ARNOLD SCHWARZENEGGER
Governor

September 29, 2009

Mr. James L. Armstrong
City Administrator/Clerk/Treasurer
City of Santa Barbara
630 Garden Street
Santa Barbara, California 93102

Dear Mr. Armstrong:

**SAFE DRINKING WATER STATE REVOLVING FUND PROJECT FUNDING FOR
CITY OF SANTA BARBARA, PROJECT NO. 4210010-004**

Your application for funding under the Safe Drinking Water State Revolving Fund (SDWSRF) has been reviewed by the California Department of Public Health (CDPH) and its agent, Department of Water Resources (DWR). We have determined that project number **4210010-004**, as proposed by the City of Santa Barbara, is eligible for a construction loan in the amount of \$29,920,000. The proposed funding is provided in part from a Federal Capitalization Grant for Drinking Water State Revolving Fund (California) CFDA number 66.468.

This letter serves as our Notice of Acceptance of Application (NOAA). Funds in the amount of \$29,920,000 have been reserved for this project provided the terms and conditions as set forth herein are met, subject to availability of funds.

The funding agreement when issued and executed will provide for a \$29,920,000 loan to be repaid over 20 years at a 2.5017 percent interest rate. Once the City of Santa Barbara begins drawing loan funds, CDPH will invoice you semiannually during construction for interest accrued on funds disbursed. (Section 116761.65 of the Health and Safety Code prohibits deferral of interest on loans.) Your semiannual principal and interest payments will be approximately \$955,240 and will normally begin after project completion. An accumulation of approximately \$95,524 semiannually during the first 10 years of the loan repayment period is required in order to build a loan repayment reserve fund equal to two semiannual payments.

Funding is contingent upon your **timely** compliance with all terms and conditions of this NOAA, including those set forth in the "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS" attached hereto and incorporated herein by this reference. Compliance shall be determined at the sole discretion of CDPH or its authorized representative.

This NOAA is not an authorization to begin construction. Unless prior written approval from CDPH is received, initiation of construction of this project prior to the execution of a funding agreement may result in this project being ineligible for financing from the SDWSRF. Therefore, if you plan to start construction early, you should immediately contact your District Office of CDPH.

In order to maintain the reservation of funds in the SDWSRF account for your project, you must sign the attached "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS" at the space provided and return it within **60 days** of receipt. **We have provided two originals. Please sign and return one full document to:**

Department of Water Resources
Safe Drinking Water Office
Attention: Dennis Woods
1416 Ninth Street, Room 816
Post Office Box 942836
Sacramento, California 94236-0001

Your signature will indicate your acceptance of the terms and conditions and your intention to proceed with the project. It does not constitute any obligation on your part to enter into the loan funding agreement. **Failure to sign and return the attachment to this NOAA within the time period will result in the withdrawal of the NOAA and the bypassing of your project.**

Mr. James L. Armstrong, City Administrator
September 29, 2009
Page 3

The State commends the City of Santa Barbara for taking steps to enhance the provision and protection of the drinking water supplied to your consumers. If you have any questions regarding this NOAA, please contact either your CDPH Santa Barbara District Office at (805) 566-1326 or Dennis Woods, DWR Associate Analyst, at (916) 653-9724, or by e-mail at dwoods@water.ca.gov.

Sincerely,



~~for~~ Gary H. Yamamoto, P.E., Chief
Division of Drinking Water
and Environmental Management

Enclosures

cc: (See Attached list.)

Honorable Pedro Nava
Member of the Assembly
State Capitol, Room 2148
Sacramento, California 94249-0035

Honorable Tony Strickland
Member of the Senate
State Capitol, Room 4062
Sacramento, California 94248-0001

Honorable Marty Blum
Mayor of the City of Santa Barbara
735 Anacapa Street
Santa Barbara, California 93101

Ms. Rebecca Bjork, Water Resources Manager
City of Santa Barbara
630 Garden Street
Santa Barbara, California 93102

Mr. Kurt Souza, Regional Engineer
Division of Drinking Water and
Environmental Management
Carpinteria Section
California Department of Public Health
1180 Eugenia Place, Suite 200
Carpinteria, California 93013

Mr. Kurt Souza, Acting District Engineer
Santa Barbara District
Division of Drinking Water and
Environmental Management
California Department of Public Health
1180 Eugenia Place, Suite 200
Carpinteria, California 93013

Ms. Linda Ng, Chief
Safe Drinking Water Office, Room 816
Department of Water Resources
Post Office Box 942836
Sacramento, California 94236-0001

Mr. Dennis Woods, Associate Analyst
Safe Drinking Water Office, Room 816
Department of Water Resources
Post Office Box 942836
Sacramento, California 94236-0001

Mr. Kelvin Yamada, Chief
Drinking Water Infrastructure Financing Section
Division of Drinking Water and
Environmental Management
California Department of Public Health
Post Office Box 997377
Sacramento, California 95899-7377

Ms. Lorri Silva
Drinking Water Infrastructure Financing Section
Division of Drinking Water and
Environmental Management
Safe Drinking Water State Revolving
Fund Program
California Department of Public Health
Post Office Box 997377
Sacramento, California 95899-7377

Ms. Natalia Deardorff, ERU HQ
Environmental Unit
Division of Drinking Water and
Environmental Management
California Department of Public Health
Post Office Box 997377
Sacramento, California 95899-7377

Ms. Nadine Feletto
Technical Support Unit
Division of Drinking Water and
Environmental Management
California Department of Public Health
Post Office Box 997377
Sacramento, California 95899-7377

CITY OF SANTA BARBARA
Project No. 4210010-004

**SAFE DRINKING WATER STATE REVOLVING FUND
NOTICE OF ACCEPTANCE OF APPLICATION
TERMS AND CONDITIONS**

Unless otherwise expressly directed herein, items indicated as DWR Requirements must be submitted to DWR at the address provided below, and CDPH Requirements must be submitted to your District Office of CDPH.

Copies of all documents referenced below are enclosed. You are encouraged to share these documents with your legal and financial advisor(s) and governing body. Any concerns or comments should be directed to DWR.

- I. Prior to issuance of the funding agreement for signature by your authorized representative, the following items must be provided:**

DWR Requirements

1. A written designation, by resolution or as otherwise appropriate, of individual(s) with legal authority to:
 - a. Sign the SDWSRF funding agreement;
 - b. Approve the Claims for Reimbursement;
 - c. Sign the Budget and Expenditure Summary;
 - d. Sign the Final Release form; and
 - e. Sign the certification that the project is complete and ready for final inspection.

Person(s) signing the Budget and Expenditure Summary and certification that the project is complete and ready for final inspection must be a registered engineer(s) or person(s) approved by CDPH.

2. A written statement, resolution, or ordinance (as appropriate) adopted by the water system's governing body identifying a source of revenue and pledging/dedicating such source of revenue for repayment of the loan. When identifying the source of repayment, the identification should be as specific as possible, for example if using: assessments provide assessment name, date or number; user water rates, fees, or charges; CPUC authorized surcharge provide identity of CPUC order; or provide identity of accounts receivable as appropriate. The document shall also include a statement agreeing to increase rates as appropriate whenever necessary to satisfy debt service over the term of the loan.

You are encouraged to submit a draft of the statements, resolutions, or ordinances to DWR for review **prior** to taking it to your board or governing body for adoption or approval. DWR will review the draft and recommend to you any required modifications, thus avoiding unnecessary delays in issuance of your funding agreement. A resolution that does not meet program requirements will not be accepted.

3. Provide the identity of your Contract Manager.
4. The City of Santa Barbara shall certify to CDPH that any fees or charges needed to construct, operate and/or maintain the proposed project, including revenues dedicated for repayment of a SDWSRF loan, have been approved in accordance with Article XIII C and XIII D of the California Constitution (Proposition 218), or provide the written opinion of its legal counsel that Proposition 218 procedures are not applicable or required.

Note: You are encouraged to commence satisfaction of the above DWR Requirements immediately. Any concerns or comments should be directed to DWR.

CDPH Requirements

1. If property will be purchased for this project, the City of Santa Barbara shall provide documentation of conformance of land acquisition with the federal Uniform Relocation Assistance and Real Property Acquisition Act (Uniform Act) requirements to the Uniform Act coordinator at CDPH Sacramento Office, SRF Program no later than September 1, 2010. Please refer to the enclosed letter dated March 12, 2009, from Mr. Stephen Woods of CDPH.
2. The City of Santa Barbara shall submit final plans and specifications with a detailed cost breakdown for the entire project (including non-SRF funded portions) to CDPH's Santa Barbara District Office no later than September 1, 2010.
3. The City of Santa Barbara shall submit a permit amendment application to CDPH's Santa Barbara District Office no later than September 1, 2010.
4. The City of Santa Barbara shall prepare and submit the Worksheet for CEQA/NEPA Determinations to CDPH's Environmental Review Unit (ERU) for federal coordination no later than September 1, 2010.
5. The City of Santa Barbara shall the Federal Cross-cutters Worksheet to assist in federal coordination in accordance with the CDPH "NEPA-like" requirements no later than September 1, 2010.

6. The City of Santa Barbara shall complete its CEQA documentation and file such documentation, including any applicable Notices with the Santa Barbara County Clerk's Office and the Governor's Office of Planning and Research State Clearinghouse and send a copy of such documentation to CDPH's ERU no later than September 1, 2010.

All requirements under I must be satisfied before a funding agreement will be issued for signature by your authorized representative, and all such requirements must be satisfied within 1 year following the date of your signature of this "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS".

II. Prior to final execution of the funding agreement by State, the following items must be provided:

DWR Requirements

1. The services of a Fiscal Agent must be secured to assist in administering repayment of the loan. Complete and return to DWR a Fiscal Services Agreement form, in triplicate with original signatures on all copies.
2. Complete and sign a Payee Data Record (STD 204). This form is to be returned with the signed funding agreement. DWR will forward it with the final funding agreement to CDPH.

CDPH Requirements

1. The City of Santa Barbara shall have a Labor Compliance Program for this project prior to construction bid solicitation. Appropriate provisions related to the Labor Compliance Program shall be included in all construction bid solicitation(s).
2. The City of Santa Barbara shall certify to CDPH that it is in compliance with Labor Code Section 1771.8 requirements. (Information is available on the Department of Industrial Relations website: <http://www.dir.ca.gov/lcp.asp>) The certification shall be sent to CDPH Sacramento Office, SRF Program no later than September 30, 2010. Enclosed is an acceptable certification form which may be used to satisfy this requirement.

All items under II must be provided before final execution of the funding agreement by State.

Failure to timely comply with DWR and CDPH Requirements I and II may result in a withdrawal of the Notice of Acceptance of Application. Should this occur, your project will be bypassed but will remain on the project priority list. You may submit a new application for future funding only after receiving another letter of invitation from CDPH. If for any unforeseen reason you are unable to comply with any of the above requirements, you should contact your District Office of CDPH as soon as possible.

III. Prior to disbursement of funds, the following items must be provided:

DWR Requirements

1. Evidence that a separate checking account or a separate ledger has been established to account for funds received from the State.

Please indicate the name and address of the financial institution, exact name of account holder, and the account name and number. If this checking account is not used solely to account for funds received from the State, you must establish a ledger within your accounting system in accordance with generally accepted accounting principles. The ledger must identify the project number and SRF funding agreement number. You must provide documentation showing that the ledger has been established. **(Please note all accounts are subject to audit at any time.)**

2. Detailed account information where funds collected to repay the loan are held before being transferred to your Fiscal Agent.

Please indicate the name and address of the financial institution, exact name of account holder, and the account name and number. You must establish a ledger within your accounting system in accordance with generally accepted accounting principles to account for the receipt of funds collected to repay the loan. The ledger must identify the project number and SRF funding agreement number. You must provide documentation showing that the ledger has been established. **(Please note all accounts are subject to audit at any time.)**

3. Complete and return to DWR a Security Agreement (Deposit Account) form, on the accounts in items 1 and 2 above. For account verification by the State, please provide one of the following: a voided blank check, voided deposit slip, or a copy of your most recent bank statement on this account.
4. A Financing Statement (form UCC-1) will be completed and filed with the Secretary of State of California by DWR. A copy of the form is enclosed. This document is filed to provide security in items of personal property including the accounts as referenced in items 1 and 2 above.

CDPH Requirements

1. The City of Santa Barbara shall submit an initial budget of eligible project costs approved by CDPH on a DWR Budget and Expenditure Summary form.

All items under III must be provided before any disbursement of funds will be made.

IV. General Requirements

CDPH Requirements

1. City of Santa Barbara **must complete all technical, environmental and financial conditions of the Notice of Acceptance of Application including this "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS" within a time frame such that a funding agreement can be issued within 1 year from the date you sign this "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS".**
2. Subsequent to funding agreement execution you may request a **one-time** increase in funding. Such request must be **based upon competitive bids** and shall be submitted to the Santa Barbara District Office of CDPH. Approval of your request may be granted or denied at the sole discretion of the State, subject to funding availability and your financial qualifications.
3. Pursuant to Government Code Section 8546.7 the contracting parties shall be subject to the examination and audit of the State or any agent thereof, and the State Auditor. Parties are also subject to examination and audit of the U.S. Environmental Protection Agency, the Comptroller General of the United States, and Office of the Inspector General.
4. As a signatory to the California Urban Water Conservation Council – Memorandum of Understanding (MOU), the City Of Santa Barbara is responsible for the implementation of the urban water conservation "best management practices" of the MOU.
5. The City of Santa Barbara shall submit an Operations Plan amendment for the proposed facilities to the Santa Barbara District Office no later than December 31, 2013.

6. The City of Santa Barbara shall not initiate project construction activities unless and until the environmental review process is complete and all applicable Notices are filed.
7. The City of Santa Barbara shall complete construction of the project no later than December 31, 2013.
8. Any significant changes in the project design, subsequent to the issuance of this NOAA and prior to issuance of a funding agreement, may be subject to further environmental review.
9. Cross-cutting Federal Authorities apply to your project; see enclosed list. In order to conform to the federally mandated Disadvantaged Business Enterprise (DBE) good faith effort requirements, you must include the appropriate DBE "good faith effort" provisions in any bid documents. (You must meet the "good faith effort" requirements even if you do not utilize a formal bid process.). In order to demonstrate conformance with the federally mandated DBE good faith effort requirements, you must submit the construction bid solicitation package and the Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) good faith effort documentation from the construction funding agreement award, to the CDPH DBE coordinator.

The United States Environmental Protection Agency has established a good faith effort process to assure DBE have the opportunity to compete to participate in federally funded procurement. To comply with this requirement, you must:

- Perform the six affirmative steps required to meet the good faith effort requirements on procurement of construction, equipment, supplies and services for this project. **(You will be required to demonstrate that you have complied with the six "good faith" steps.)**
- Include EPA forms 6100-2, (DBE Program Subcontractor Participation Form), EPA forms 6100-3 (DBE Program Subcontractor Performance Form), and EPA Form 6100-4 (DBE Program Subcontractor Utilization Form) in each bid solicitation.
- Report semiannually on or before April 15 and October 15 on the CDPH MBE/WBE Utilization Report, enclosed.
- **Create and maintain a bidders list** if the recipient of the funding is subject to, or chooses to follow, competitive bidding requirements. The list, of all firms that bid or quote on prime contracts, or bid or quote subcontracts, must be kept until the project completion has been certified to CDPH.
- Include "Good Faith Effort" language in all contracts and subcontracts requiring compliance with the above.

Enclosed you will find a copy of the **Disadvantaged Business Enterprise (DBE) – Guidance for Public Water Systems (June 2009)** concerning conformance with the federal regulations for Participation by Disadvantaged Business Enterprise in USEPA funded projects. Should you have any questions regarding MBE/WBE, please contact Nadine Feletto with CDPH at (916) 449-5621.

Under the Federal Drinking Water State Revolving Fund Guidelines, the City of Santa Barbara is required to comply with the Single Audit Act. This Act requires entities to conduct an audit in accordance with the Office of Management and Budget (OMB) Circular A-133 Act if the entity expends \$500,000 or more (or as said threshold amount may be amended by the federal government) in federal awards from any funding source, during the entity's fiscal year. A copy of the audit is to be submitted to CDPH. Information regarding the Single Audit Act can be found on the Internet at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>.

Address for DWR:

Department of Water Resources
Safe Drinking Water Office
Attention: Dennis Woods
1416 Ninth Street, Room 816
Post Office Box 942836
Sacramento, California 94236-0001

The terms and conditions set forth in the Notice of Acceptance of Application dated September 29, 2009, including those set forth in this "City of Santa Barbara, Project No. 4210010-004 SAFE DRINKING WATER STATE REVOLVING FUND NOTICE OF ACCEPTANCE OF APPLICATION TERMS AND CONDITIONS" are acceptable to the City of Santa Barbara and it is City of Santa Barbara's intent to continue with this project as proposed.

Signature: _____

Date: _____

Print Name: _____

Title: _____

Address: _____
